



**FEDERAL TRADE COMMISSION**  
**Agency Information Collection Activities;**  
**Proposed Collection; Comment Request; Extension**

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend an additional three years the Office of Management and Budget clearance for information collection requirements of its the FTC's Rule Governing Pre-Sale Availability of Written Warranty Terms. The current clearance expires on May 31, 2023.

**DATES:** Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Laura Basford, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2343.

**SUPPLEMENTARY INFORMATION:**

*Title:* Pre-Sale Availability of Written Warranty Terms (Pre-Sale Availability Rule or Rule), 16

Part CFR 702.

*OMB Control Number:* 3084-0112.

*Type of Review:* Extension of a currently approved collection.

*Background:*

The Pre-Sale Availability Rule, 16 CFR part 702, is one of three rules<sup>1</sup> that the FTC issued as required by the Magnuson Moss Warranty Act, 15 U.S.C. 2301 et seq. (Warranty Act or Act).<sup>2</sup> The Pre-Sale Availability Rule requires sellers and warrantors to make the text of any written warranty on a consumer product costing more than \$15 available to the consumer before sale. Among other things, the Rule requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door to door sales. In addition, in 2016, the FTC revised the Rule to allow warrantors to post warranty terms on Internet Web sites if they also provide a non-Internet based method for consumers to obtain the warranty terms and satisfy certain other conditions.<sup>3</sup> The revised Rule also allows certain sellers to display warranty terms pre-sale in an electronic format if the warrantor has used the online method of disseminating warranty terms.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Pre-Sale Availability Rule.

**Burden Statement:**

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<sup>1</sup> The other two rules relate to the information that must appear in a written warranty on a consumer product costing more than \$15 if a warranty is offered and minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty.

<sup>2</sup> 40 FR 60168 (Dec. 31, 1975).

<sup>3</sup> 81 FR 63664-70 (Sept. 15, 2016).

**Total annual hours burden: 2,764,837.**

In its 2019 submission to OMB, FTC staff estimated that the information collection burden of making the disclosures required by the Pre-sale Availability Rule was approximately 3,069,314 hours per year. Although there has been no change in the Rule's information collection requirements since 2019, staff has adjusted downward its previous estimate of the number of manufacturers subject to the Rule based on recent Census data. Based on that data, staff now estimates that there are approximately 27,094 manufacturers subject to the Rule.<sup>4</sup> In addition, staff has adjusted downward its previous estimate of the number of retailers subject to the Rule based on recent Census data. There are now an estimated 523,164 retailers impacted by the Rule.<sup>5</sup> These estimates likely overstate the number of manufacturers and retailers because some of the included manufacturers and retailers may make and sell products that are not covered by the Rule.

In prior years, staff categorized retailers and manufacturers based on their size, and applied different time estimates for complying with the Rule based on whether the entity was large or small. This year, staff instead applies a single time estimate to all retailers and another to all manufacturers, regardless of size. These estimates are intended to be an average time burden, reflecting the typical burden across the full spectrum of retailers and manufacturers, and taking into account the number of large and small entities from prior years. This approach is consistent with how staff have estimated the time burden for the Warranty Rule, 16 CFR part 701, another rule the FTC issued under the Act.

Staff estimates that retailers spend, on average, 5 hours per year to comply with the Rule. Accordingly, the total annual burden for retailers is approximately 2,615,820 hours (523,164 retailers x 5 burden hours). Staff estimates that manufacturers spend an average of 5.5 hours per year to comply with the Rule. Accordingly, the total annual burden incurred by manufacturers is

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<sup>4</sup> The 2019 estimate was that 31,029 manufacturers were subject to the Rule.

<sup>5</sup> The 2019 estimate was that 575,177 retailers were subject to the Rule.

approximately 149,017 hours (27,094 manufacturers x 5.5 hours).

Thus, the total annual burden for all covered entities is approximately 2,764,837 hours (2,615,820 hours for retailers + 149,017 hours for manufacturers).

**Total annual labor cost:** \$67,738,531.

The work required to comply with the Pre-Sale Availability Rule entails a mix of clerical work and work performed by sales associates. Staff estimates that half of the total burden hours would likely be performed by sales associates. At the manufacturing level, this work would entail ensuring that the written warranty is available for every warranted consumer product. At the retail level, this work would entail ensuring that the written warranty is made available to the consumer prior to sale. The remaining half of the work required to comply with the Pre-Sale Availability Rule is clerical in nature, *e.g.*, shipping or otherwise providing copies of manufacturer warranties to retailers, along with retailer maintenance of the warranties. Applying a sales associate wage rate of \$26/hour to half of the burden hours and a clerical wage rate of \$23/hour to half of the burden hours, the total annual labor cost burden is approximately \$67,738,531 (1,382,419 hours x \$26 per hour) + (1,382,419 hours x \$23 per hour).<sup>6</sup>

**Total annual capital or other non-labor costs:** De minimis.

The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails keeping warranties on file electronically, in binders or otherwise, and posting an inexpensive sign indicating warranty availability. Warrantor compliance under the 2016 amendments entails providing retailers, together with the warranted good, a copy of the warranty or the address of the warrantor's Internet Web site where the consumer can review and obtain the warranty terms, along with the contact information where the consumer may use a non-Internet based method to

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<sup>6</sup> The wage rates are derived from occupational data found in the National Occupational Employment and Wage Estimates – May 2021, U.S. Bureau of Labor Statistics, released March 31, 2022: [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm).

obtain a free copy of the warranty terms. Commission staff believes that, in light of the amendments, annual capital or other non-labor costs will remain de minimis.

### **Request for Comments**

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Due to the public health emergency in response to the COVID-19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write "Paperwork Reduction Act Comment: FTC File No. P072108" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580; or deliver your comment to

the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) —including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at [www.regulations.gov](https://www.regulations.gov), we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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